

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Berez et al.

Application No.: 10/724,010

Group No.: 3733

Filed: November 25, 2003

Examiner: Philogene, P.

For: Patient Selectable Joint Arthroplasty Devices and Surgical Tools Facilitating Increased Accuracy, Speed and Simplicity in Performing Total and Partial Joint Arthroplasty

Mail Stop Amendment

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

**TRANSMITTAL OF SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT
BEFORE MAILING DATE OF EITHER A FINAL ACTION
OR NOTICE OF ALLOWANCE (37 C.F.R. § 1.97(c))**

**TIME OF TRANSMITTAL OF ACCOMPANYING
SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT**

1. The information disclosure statement transmitted herewith is being filed *after* three months of the filing date of this national application or the date of entry of the national stage as set forth in Section 1.491 in an international application or after the mailing date of the first Office action on the merits, whichever event occurred last but *before* the mailing date of either

(1) a final action under § 1.113 or

(2) a notice of allowance under § 1.311

whichever occurs first.

FEE

2. Accompanying this transmittal is the fee for submission of an information disclosure statement under section 1.97(c). (\$180.00)

FEE PAYMENT

3. Applicant elects the option to pay the fee set forth in 37 C.F.R. § 1.17(p) for submission of an information disclosure statement under § 1.97(c) (\$180.00).

Fee due \$180.00

METHOD OF PAYMENT OF FEE

4. Authorization is hereby made to charge the amount of \$180.00 to Deposit Account No. 19-4972.

Charge any additional fees required by this paper or credit any overpayment to Deposit Account No. 19-4972.

DATE: April 28, 2008

/Alexander J. Smolenski, Jr., #47,953/

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02960/00116 865153.1

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SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

NOTE: *"An information disclosure statement shall be considered by the Office if filed by the applicant:*

- (1) Within three months of the filing date of a national application;*
- (2) Within three months of the date of entry of the national stage as set forth in section 1.491 in an international application; or*
- (3) Before the mailing date of a first Office action on the merits, whichever event occurs last." 37 C.F.R. section 1.97(b).*

NOTE: *"Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section." 37 C.F.R. section 1.56(a).*

"Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

- (1) each inventor named in the application;*
- (2) each attorney or agent who prepares or prosecutes the application; and*
- (3) every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application." 37 C.F.R. section 1.56(c).*

NOTE: *The "duty as described in section 1.56 will be met so long as the information in question was cited by the Office or submitted to the Office in the manner prescribed by sections 1.97(b) - (d) and 1.98 before issuance of the patent." Notice of January 9, 1992, 1135 O.G. 13-25 at 17.*

WARNING: *"No information disclosure statement may be filed in a provisional application." 37 C.F.R. section 1.51(b).*

List of Sections Forming Part of This Supplemental Information Disclosure Statement

The following sections are being submitted for this Supplemental Information Disclosure Statement:

(check sections forming a part of this statement: discard unused sections and number pages consecutively)

1. ☒ Preliminary Statements
2. ☒ Forms PTO/SB/08A and 08B (substitute for Form PTO-1449)
3. ☐ Statement as to Information Not Found in Patents or Publications
4. ☐ Identification of Prior Application in Which Listed Information Was Already Cited and for Which No Copies Are Submitted or Need Be Submitted
5. ☐ Cumulative Patents or Publications
6. ☒ Copies of Listed Information Items Accompanying This Statement
7. ☐ Concise Explanation of Non-English Language Listed Information Items
 - 7A. ☐ EPO Search Report
 - 7B. ☐ English Language Version of EPO Search Report
8. ☐ Translation(s) of Non-English Language Documents
9. ☐ Concise Explanation of English Language Listed Information Items (Optional)
10. ☒ Identification of Person(s) Making This Information Disclosure Statement

(complete the following, if appropriate)

Sections _____, respectively, have been continued on ADDED PAGE(S).

NOTE : "Once the minimum requirements are met, the examiner has an obligation to consider the information." Notice of April 20, 1992 (1138 O.G. 37-41, 37).

Section 1. Preliminary statements

Applicants submit herewith patents, publications or other information, of which they are aware that they believe may be material to the examination of this application, and in respect of which, there may be a duty to disclose.

The filing of this information disclosure statement shall not be construed as a representation that a search has been made (37 C.F.R. section 1.97(g)), an admission that the information cited is, or is considered to be, material to patentability, or that no other material information exists.

The filing of this information disclosure statement shall not be construed as an admission against interest in any manner. Notice of January 9, 1992, 1135 O.G. 13-25, at 25.

SECTION 2. FORMS PTO/SB/08A and 08B (formerly Form PTO-1449)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Berez et al. Attorney Docket: 2960/116

Serial No: 10/724,010 Art Group Unit: 3733

Date Filed: November 25, 2003 Examiner Name: Philogene, P.

Invention: Patient Selectable Joint Arthroplasty Devices and Surgical Tools Facilitating Increased Accuracy, Speed and Simplicity in Performing Total and Partial Joint Arthroplasty

**LIST OF PATENTS AND PUBLICATIONS FOR
APPLICANT'S SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT**

U.S. PATENT DOCUMENTS					
Examiner Initials	Reference Number	Document Number	Issue Date	Inventor	Class/Subclass
/P.P./	BK	US 5,380,332	Jan. 10, 1995	Ferrante	606/79
	BL	US 5,474,559	Dec. 12, 1995	Bertin et al.	606/89
	BM	US 5,540,696	Jul. 30, 1996	Booth, Jr. et al.	606/88
	BN	US 5,597,379	Jan. 26, 1997	Haines et al.	606/80
	BO	US 5,601,563	Feb. 11, 1997	Burke et al.	606/86
	BP	US 5,649,929	Jul. 22, 1997	Callaway	606/88
	BQ	US 5,682,886	Nov. 4, 1997	Delp et al.	128/653.1
	BR	US 5,768,134	Jun. 16, 1998	Swaelens, et al.	364/468.28
	BS	US 5,911,723	Jun. 15, 1999	Ashby et al.	606/88
	BT	US 6,161,080	Dec. 12, 2000	Aouni-Ateshian, et al.	703/11
	BU	US 6,203,546	Mar. 20, 2001	MacMahon	606/87
	BV	US 6,478,799	Nov. 12, 2002	Williamson	606/90
	BW	US 6,560,476	May 6, 2003	Pelletier et al.	600/410
	BX	US 6,712,856	Mar. 30, 2004	Carignan, et al.	623/20.35
	BY	US 6,905,514	June 14, 2005	Carignan et al.	623/20.35
	BZ	US 7,008,430	Mar. 7, 2006	Dong et al.	606/80
	CA	US 7,060,074	June 13, 2006	Rosa et al.	606/88
	CB	US 7,104,997	Sept. 12, 2006	Lionberger et al.	606/88
	CC	US 7,115,131	Oct. 3, 2006	Engh et al.	606/79
	CD	US 7,117,027	Oct. 3, 2006	Zheng et al.	600/426
	CE	US 7,184,814	Feb. 27, 2007	Lang et al.	600/416
	CF	US 7,239,908	July 3, 2007	Alexander et al.	600/427

U.S. PATENT PUBLICATION DOCUMENTS					
Examiner Initials	Reference Number	Document Number	Publication Date	Inventor	Class/Subclass
/P.P./	CG	US 2002/0029038	March 7, 2002	Haines	606/54
/P.P./	CH	US 2003/0028196	Feb. 6, 2003	Bonutti	606/87

Applicants: Berez et al. Attorney Docket: 2960/116

Serial No: 10/724,010 Art Group Unit: 3733

Date Filed: November 25, 2003 Examiner Name: Philogene, P.

Invention: Patient Selectable Joint Arthroplasty Devices and Surgical Tools Facilitating Increased Accuracy, Speed and Simplicity in Performing Total and Partial Joint Arthroplasty

/P.P./	CI	US 2003/0100907	May 29, 2003	Rosa et al.	606/86
	CJ	US 2003/0158558	Aug. 21, 2003	Horn	606/87
	CK	US 2003/0163137	Aug. 28, 2003	Smucker et al.	606/87
	CL	US 2003/0236521	Dec. 25, 2003	Brown et al.	606/80
	CM	US 2004/0098133	May 20, 2004	Carignan et al.	623/20.35
	CN	US 2004/0249386	Dec. 9, 2004	Faoro	606/88
	CO	US 2004/0267390	Dec. 30, 2004	Ben-Yaacov et al.	700/94
	CP	US 2005/0021039	Jan. 27, 2005	Cusick et al.	606/88
	CQ	US 2006/0235421	Oct. 19, 2006	Rosa et al.	606/88
	CR	US 2007/0015995	Jan. 18, 2007	Lang et al.	600/407
	CS	US 2007/0073305	Mar. 29, 2007	Lionberger et al.	606/87
	CT	US 2007/0118141	May 24, 2007	Marchyn et al.	606/88
	CU	US 2007/0203430	Aug. 30, 2007	Lang et al.	600/587
	CV	US 2007/0276224	Nov. 29, 2007	Lang et al.	600/410
	CW	US 2008/0015433	Jan. 17, 2008	Alexander et al.	600/427

Examiner Initials	Reference Number	Title of Article, Title of Journal, Volume Number, Page Numbers, Date
/P.P./	CX	Kshirsager et al. "Measurement Of Localised Cartilage Volume And Thickness Of Human Knee Joints By Computer Analysis Of Three-Dimensional Magnetic Resonance Images", Invest Radiol. 1998, Pages 1-33
/P.P./	CY	Office Action dated June 15, 2007, pertaining to Application No. 09/882,363, 9 pages
/P.P./	CZ	Response to Office Action dated June 15, 2007, pertaining to Application No. 09/882,363, 12 pages
/P.P./	DA	Office Action dated March 21, 2008, pertaining to Application No. 09/882,363, 12 pages
/P.P./	DB	Response to Office Action dated January 30, 2007, pertaining to Application No. 09/882,363, 7 pages

Applicants:	Berez et al.	Attorney Docket:	2960/116
Serial No:	10/724,010	Art Group Unit:	3733
Date Filed:	November 25, 2003	Examiner Name:	Philogene, P.
Invention:	Patient Selectable Joint Arthroplasty Devices and Surgical Tools Facilitating Increased Accuracy, Speed and Simplicity in Performing Total and Partial Joint Arthroplasty		

Examiner Signature: /Pedro Philogene/

Date Considered: 04/30/2008

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; draw line through citation *if not* in conformance and not considered. Include copy of this form with next communication to applicant.

Section 6. Copies of Listed Information Items Accompanying This Statement

NOTE: 37 C.F.R. section 1.98(a)(2) requires that any information disclosure statement filed under section 1.97 shall include: "A legible copy of: (i) Each U.S. and foreign patent; (ii) Each publication or that portion which caused it to be listed; and (iii) All other information or that portion which caused it to be listed, except that no copy of a U.S. patent application need be included . . ."

NOTE: The wording in section 1.98(a)(2)(iii) makes it clear that the requirement to submit a copy of each item of information listed in an information disclosure statement does not apply to the citation of a U.S. patent application. Notice of January 9, 1992, 1135 O.G. 13-25, at 14.

Legible copies of all items listed in Forms PTO/SB/08A and 08B (substitute for Form PTO-1449) accompany this information statement.

(complete the following, if applicable)

☒ Exception(s) to above:

U.S. patent citations are not included pursuant to the United State Patent and Trademarks Office's September 21, 2004 waiver of the copy requirement in 37 CFR 1.98 for cited pending U.S. patent citations when the patent citations are available in the USPTO's IFW system.

☐ Items in prior application, from which an earlier filing date is claimed for this application, as identified in Section 4.

☐ Cumulative patents or publications identified in Section 5.

Section 10. Identification of Person(s) Making This Information Disclosure Statement

The person making this certification is

(check each applicable item)

- (a) ☐ the inventor(s) who signs below

SIGNATURE OF INVENTOR

(type name of inventor who is signing)

- (b) ☐ an individual associated with the filing and prosecution of this application (37 C.F.R. section 1.56(c))

SIGNATURE OF INVENTOR

(type name of inventor who is signing)

- (c) ☒ the practitioner who signs below on the basis of the information:

(check each applicable item)

☐ supplied by the inventor(s).

☐ supplied by an individual associated with the filing and prosecution of this application.
(37 C.F.R. section 1.56(c)).

☒ in the practitioner's file.

/Alexander J. Smolenski, Jr., #47,953/

SIGNATURE OF PRACTITIONER

Reg. No.: 47,953

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